

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Case No. 19-CR-84-JDP

URSULA WING,

Madison, Wisconsin

July 10, 2020

Defendant.

1:32 p.m.

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STENOGRAPHIC TRANSCRIPT OF VIDEOCONFERENCE SENTENCING  
HELD BEFORE CHIEF U.S. DISTRICT JUDGE JAMES D. PETERSON

APPEARANCES:

For the Plaintiff:

Office of the United States Attorney  
BY: DANIEL GRABER  
Assistant United States Attorney  
222 West Washington Avenue, Suite 700  
Madison, Wisconsin 53703

For the Defendant:

Law Office of Christopher T. Van Wagner  
BY: CHRISTOPHER T. VAN WAGNER  
110 East Main Street, Suite 705  
Madison, Wisconsin 53703

Also appearing:

URSULA WING, Defendant  
JESSICA SHEETS, U.S. Probation Officer

Jennifer L. Dobbratz, RMR, CRR, CRC  
U.S. District Court Federal Reporter  
United States District Court  
120 North Henry Street, Rm. 410  
Madison, Wisconsin 53703  
(608) 261-5709

1 (Proceedings called to order at 1:32 p.m.)

2 THE CLERK: The United States District Court for the  
3 Western District of Wisconsin is now in session. District Judge  
4 James D. Peterson presiding.

5 Case No. 19-CR-84, the *United States of America v. Ursula*  
6 *Wing*, called for sentencing.

7 May we have the appearances, please.

8 MR. GRABER: Good afternoon, Your Honor. Dan Graber on  
9 behalf of the United States.

10 THE COURT: Good afternoon.

11 MR. VAN WAGNER: Good afternoon, everybody, including  
12 the judge. Ursula Wing appears by Zoom video. She has muted  
13 her microphone at my suggestion. Chris Van Wagner appears with  
14 her for sentencing today this way, and we consent to this.

15 THE COURT: Very good. Good afternoon to both of you.

16 I'll also note that Jessica Sheets, the probation officer  
17 who prepared the presentence report, is also on the call with  
18 us.

19 As Mr. Van Wagner indicated, we're proceeding by video  
20 teleconference. I think I got a written consent to this, but  
21 I'm going to put it on the record as well. I've made a  
22 determination for the court as a whole that it's not safe to  
23 hold in-person hearings without imposing an undue risk to the  
24 safety of the participants, and I find that that's true in this  
25 case in particular. But we can proceed this way only if Ms.

1 Wing agrees to it.

2 So, Ms. Wing, I want to make sure you understand you've got  
3 the right to appear before me in person for your sentencing. Do  
4 you understand that?

5 THE DEFENDANT: Yes, I understand.

6 THE COURT: And you're willing to waive your personal  
7 appearance and proceed by video teleconference?

8 THE DEFENDANT: Yes, I am.

9 THE COURT: That's how we'll proceed then.

10 Here are the materials I've reviewed in connection with the  
11 sentencing: I've got the presentence report, statements that  
12 there were no objections to the guideline calculations from both  
13 sides, but both sides offered some factual clarifications, which  
14 I believe are reflected in the addendum and the revised  
15 presentence report, which I also have. I've got the sentencing  
16 memorandum in two chapters from Mr. Van Wagner on behalf of the  
17 defendant. I've got the government's response and then a  
18 rejoinder from Mr. Van Wagner as well. I've got the defendant's  
19 written allocution and letters in support of Ms. Wing, and  
20 thanks to those who took the time to write to me. I appreciate  
21 having the benefit of that input.

22 Let's make sure I didn't miss anything. Mr. Graber,  
23 anything else on your side?

24 MR. GRABER: That covers it.

25 THE COURT: And, Mr. Van Wagner, anything else on the

1 defense?

2 MR. VAN WAGNER: No, Your Honor.

3 THE COURT: All right. Ms. Wing, I need to make sure  
4 that you have reviewed the presentence report, the addendum and  
5 the revised presentence report, and that you discussed those  
6 documents with your lawyer. Have you done that?

7 THE DEFENDANT: Yes, I did.

8 THE COURT: Do you have --

9 Let me ask this, Mr. Van Wagner, first: Have the factual  
10 clarifications that you proposed been adequately reflected in  
11 the revised report?

12 MR. VAN WAGNER: Yes, Your Honor. Ms. Sheets has done  
13 a very fine job with that.

14 THE COURT: All right. Very good.

15 Then I'll ask you, Ms. Wing, do you have any other concerns  
16 with the presentence report?

17 THE DEFENDANT: No, I don't.

18 THE COURT: I will adopt the facts in the presentence  
19 report as the facts on which I'll base my sentence. I'll accept  
20 the plea agreement. The offense of conviction adequately  
21 reflects the defendant's criminal conduct. The plea agreement  
22 does not undermine the statutory purposes of sentencing, and in  
23 determining the defendant's sentence, I will take into  
24 consideration the advisory sentencing guidelines and the  
25 statutory purposes of sentencing that are set out in the

1 statutes at Title 18, United States Code, Section 3553(a).

2 There was an objection from the government on the financial  
3 profile, but I believe that that has all been resolved and  
4 corrected in the revised report.

5 Mr. Graber, do you agree with that?

6 MR. GRABER: Correct, Your Honor.

7 THE COURT: All right. Because we're in agreement on  
8 the guidelines, I've reviewed the calculation, and I find that  
9 the revised report correctly calculates the guidelines. So I'll  
10 just ask us to confirm that we're all in agreement on where we  
11 landed, and that is that we have a total offense level of 12,  
12 criminal history category is I, which means that Ms. Wing has an  
13 advisory guideline imprisonment range of ten to 16 months.

14 Mr. Graber, are we right about that?

15 MR. GRABER: Agreed, Your Honor.

16 THE COURT: And, Mr. Van Wagner?

17 MR. VAN WAGNER: We also agree.

18 THE COURT: All right. That's where the guidelines  
19 take us. Let's find out then if the parties have further input  
20 on what sentence I should impose.

21 Mr. Graber, I'll begin with you.

22 MR. GRABER: Your Honor, I did file the written  
23 sentencing memo, and I'll stand on that. I would just -- with  
24 regards to the defense rejoinder to that, I just want to clarify  
25 the point I made in the sentencing memo with regards to the

1 numbers not being right the first time around. There seems to  
2 be an issue as to whether that was done intentionally or not.  
3 From our position, Your Honor, everything that we saw was that  
4 that was the case. Now apparently they're coming back and  
5 saying that wasn't the case and that probation may have not seen  
6 the numbers.

7 My only point is if you look at Record No. 36, the letter  
8 that was filed on June the 12th by the defense, that is their  
9 position saying, yeah, that number was wrong, it's understated.  
10 The asset now, even though it was part of the estate, it's now  
11 her asset, and so, you know, the assets need to be increased by  
12 that amount, and now she's got a net worth of 931 grand as  
13 opposed to a negative 84 grand. So that's where we were coming  
14 from when I was making that argument in my sentencing  
15 memorandum, that if it wasn't a problem before, then why send an  
16 updated version of the numbers, and that was only after the  
17 government pointed out, hey, wait a minute, you've got this  
18 negative net worth, and you're not listing an asset that you --  
19 you know, you're listing the liability but not the asset because  
20 you're saying it's a number -- well, it's part of the estate's  
21 assets. It's not my assets yet.

22 And the other thing we had is it's simply them saying she's  
23 only getting one half of it. There's nothing -- there was  
24 nothing submitted saying what the split was with the  
25 inheritance. It's my understanding, according to the PSR,

1       there's three kids, so there's her, there's Michael, and there's  
2       Richard, and we don't have any records in terms of how that was  
3       split or whether she's -- the records that were sent with Mr.  
4       Van Wagner's latest filing here, 48-3, shows that the income  
5       coming in from that rental property is 18 grand a month, the  
6       mortgage is 3,500, so you've got a profit coming out on this  
7       thing just based on that, so that's one thing I wanted to point  
8       out.

9               The other thing is if -- we pointed out the liquid net  
10       assets of 503,000, 504,000 to be able to pay that down. If you  
11       even cut that in half, it's 252 grand. You take out the 62 for  
12       the forfeiture, which we don't argue -- we're not arguing that's  
13       punishment -- you've got 190, almost 200 grand in liquid assets,  
14       and a \$55,000 fine is just a fourth of that, Your Honor. And so  
15       it seems a bit rich to say, "Hey, you're taking away my  
16       inheritance by hitting me with a fine that big," when the whole  
17       point you went into this illegal activity in the first place was  
18       to make money. So that would be my argument as to why that  
19       \$55,000 number is the appropriate number.

20              THE COURT: Well, just to be clear, Ms. Sheets was  
21       pretty forthright in acknowledging that it was her overlooking  
22       information that had been provided about the inheritance, or at  
23       least the value of the real estate, and the inheritance was not  
24       reflected in the original presentence report. So it's hard to  
25       really put the blame and infer that it was really deceptive at

1 the beginning. Incorrect, yes, but Ms. Sheets has kind of owned  
2 the overlooking of that, and as Mr. Van Wagner points out, there  
3 were a lot of really detailed financial records that really were  
4 supplied. So whether she has the resources is a separate  
5 question. I just don't think that there was anything deceptive  
6 about it on the first pass on the presentence report. But I  
7 understand your argument about the fine.

8 Anything else?

9 MR. GRABER: No.

10 THE COURT: All right. Mr. Van Wagner, do you have  
11 anything to add?

12 MR. VAN WAGNER: This is the moment where I think maybe  
13 I should just keep my mouth shut, Judge, but I do want to say  
14 something --

15 THE COURT: That's the risk you take.

16 MR. VAN WAGNER: -- about the property. That's really  
17 hard to do, but Mr. Graber raised a point, and it's not relating  
18 to whether the error was intentional or deceptive. It relates  
19 to the ownership. In the 800 pages of linked documents that  
20 were made available to Ms. Sheets, Mr. Graber, first of all, had  
21 every right to inspect them and didn't.

22 Second, they included the will, the estate paperwork, all  
23 of the real estate paperwork, and when those numbers were  
24 submitted on that form in April, those numbers were still fluid  
25 because there were -- the estate was closing. So the updated



1 numbers are accurate.

2 I can't sit here and tell you, Judge, that Mr. Graber is  
3 correct that if there's \$18,000 in rent and \$3,500 in mortgage,  
4 that Ms. Wing is sharing one half or one-third of a profit of  
5 \$15,000 a month. That's a simplistic way to make it sound like  
6 she's making a lot of money, but if you have questions about her  
7 current income, she'll answer them. But we've tried to be  
8 completely forthcoming, and I think the 800 pages of documents  
9 are there if the U.S. Attorney's Office wanted to look at them.  
10 I would say this: Ms. Wing is certainly in a better financial  
11 position with her father having left the inheritance and having  
12 finished much of the estate work. It's still moving, and that  
13 certainly was always the case, but the numbers were clarified  
14 with our submission.

15 This is what I do want to say: Her income now is new, and  
16 what I mean by that is she worked in two industries. She worked  
17 in information technology, and she's been out of that for a  
18 while, and she's worked in construction. The construction part  
19 of her employ is new, and she's starting a business. She  
20 estimates that, like most businesses in a normal world, one  
21 which we don't currently inhabit fully, it takes three to five  
22 years to make a business go. So she is bleeding thousands of  
23 dollars a month literally out of the corpus of her inheritance  
24 and her funds, and she's tried to keep that as low as possible.  
25 The hope is to make the business a go. Whether she ever gets

1 back into information technology or not is an unknown.

2 But as a practical matter, the money, while seemingly a  
3 large number, does not make her rich, does not make her wealthy,  
4 and certainly gives her the ability to deplete it to pay  
5 whatever fine this court orders, but I don't think one at the  
6 very top end of the range is merited here. I think moderation  
7 would be the key because, although it's not punishment, the  
8 forfeiture itself does reflect more than just what was the  
9 hundred percent markup or 50 percent profit on the revenues the  
10 government tracked. And so from that perspective it essentially  
11 amounts to a punitive total, though certainly agreed and subject  
12 to forfeiture, because it takes away the investment she made of  
13 about \$30,000 to obtain and set up and distribute pills  
14 illegally. So there's punishment.

15 I also want to -- something has been on my mind about  
16 criminal prosecution in general, and this is where I want to  
17 finish, Judge, and I really mean that. What lies ahead for  
18 Ursula is problematic in terms of her future income. She's  
19 smart, she's very hard working, she's industrious, she's  
20 educated, and she's skilled, but in the two industries where she  
21 pursues income, there are two major roadblocks that now arise  
22 from her conviction. One is the fact of the felony conviction,  
23 which people will be readily able to find, and, second, it's  
24 really not a surprise that in this day and age anybody who  
25 wishes to employ you, whether it be as a contractor or an

1 employee, Googles you. Well, we know what's going to come up,  
2 that she's a convicted felon, that she was brought to court in  
3 Wisconsin and was convicted of breaking the law in the ways we  
4 have all agreed she did.

5 Those are hurdles whose measure are hard to take. I know  
6 Ursula is a survivor, and she'll work hard, but they're real,  
7 and those, along with the situation resulting from the pandemic,  
8 simply mean that while even in Madison, much less New York, that  
9 sum is certainly comfortable, it's not a wealth, and the Court  
10 should simply exhibit whatever quality of mercy it can in  
11 mitigating the fine in light of her full acceptance of  
12 responsibility, which I think I put in writing and stand behind.

13 And we didn't really want to get into a political  
14 discussion. We don't intend to. That was never the point, but  
15 I thought it was important, as did Ursula, that the Court  
16 understand some of the backdrop that brought her here, and  
17 that's why she gave you such a lengthy advance allocution  
18 knowing, as she did, that that would give Mr. Graber a chance to  
19 take a couple licks at it even before we walked in today, and he  
20 did. But that being said, she's told me to let you know that  
21 she's prepared to answer any questions, but she would like to  
22 rely upon that allocution.

23 Finally, I would be remiss if I did not finish by saying I  
24 do commend Ms. Sheets and really appreciate the extra effort she  
25 had to put in here to straighten things out. And thank you,

1 Jessica.

2 That's all I have today, Judge.

3 THE COURT: All right. Thank you.

4 All right. Ms. Wing, you've got the right to address the  
5 Court before I decide what your sentence would be. You don't  
6 have any obligation to say anything else, but if you have  
7 anything to add, I would like to hear it. I did see that you  
8 had some reaction to Mr. Graber's comment about your finances,  
9 but the floor is yours.

10 THE DEFENDANT: Well, I had not planned to make any  
11 further statement beyond my written statement that was  
12 previously filed, but I would like to point Mr. Graber and Chris  
13 and yourself to the P&L statement that I submitted along with  
14 the bank statements regarding the property. I'm not sure where  
15 Mr. Graber is getting those numbers, but it's all in the, you  
16 know, 800-page link that I think everyone has access to the  
17 login of, and, you know, last year it was a net loss. I'm  
18 hoping to improve that. Just that point to clarify, and then  
19 otherwise I think I'd like to just rely on my written statement.

20 THE COURT: Well, if you would, just address the point  
21 that Mr. Graber made. Let me say this, by the way: I don't  
22 entertain any doubts about the fact that you share the real  
23 estate and one of the accounts with your brother and that you  
24 have only a half interest in that amount. So that's -- Ms.  
25 Sheets has that in the presentence report. I don't have any

1 doubts about that. But Mr. Graber makes the point that the real  
2 estate produces \$18,000 in rent against a mortgage of only  
3 \$3,500, so that leaves lots of income per month. I don't know  
4 if you are prepared to just explain that.

5 THE DEFENDANT: Okay. I'm not sure where that 18,000  
6 is coming from because the rent roll is -- it's a little over  
7 9,000. Maybe he can tell me where that 18 comes from, and,  
8 again, that's in the P&L statement and the bank statements.  
9 And, you know, I pay a superintendent who works on it \$880 per  
10 month. It depends on how many weeks in that month. There's  
11 also one to 2,000 worth of utility bills, so that's rolled into  
12 the cost of rent. We don't bill that individually, which is  
13 also in the tenant leases that I submitted in the link to Ms.  
14 Sheets.

15 So, you know, it produces -- you know, now we've gotten it  
16 to a modest income. Last year it was a net loss, and it's  
17 improving, but, you know, the amount I'm able to pay myself from  
18 what's left over is \$1,500 per month, which is a small fraction  
19 of my expenses here. So, again, I would point you to the  
20 documentation. I think that's the best clarification.

21 THE COURT: All right. All right. All right.  
22 Anything else?

23 THE DEFENDANT: No. I think that's all.

24 THE COURT: We haven't really talked about the offense  
25 much, and you had a pretty full written allocution about it, so

1 I have your perspective on it. I guess I wanted to clarify one  
2 thing: One of the reasons we're here really is the event that  
3 triggered the investigation, as I understand it, was the event  
4 of the person in Wisconsin who surreptitiously gave the dose of  
5 the first drug to his girlfriend in an attempt apparently to end  
6 her pregnancy. And this is really a corollary issue to our case  
7 here. He's being prosecuted in the state, but my understanding  
8 is that the first drug would trigger an abortion in maybe 40  
9 percent of the cases, but it's highly effective when combined  
10 with the second drug but that on its own it does trigger  
11 abortion in a certain number of cases.

12 THE DEFENDANT: Can I respond?

13 THE COURT: Yeah.

14 THE DEFENDANT: Oh. So the numbers that I have read  
15 are that Misoprostol alone, which is the second drug, has an 85  
16 percent efficacy rate, and then when combined with Mifeprax  
17 administered orally 24 to 72 hours earlier, that jumps up to 95  
18 percent. I don't know of anyone that administers only Mifeprax.  
19 I don't have any efficacy information on that, but it's just not  
20 done.

21 THE COURT: Just based on my reading when I saw the  
22 information and the issue that was raised with the sentencing  
23 memo that what he had done couldn't possibly have produced the  
24 outcome of the abortion in the woman who was carrying his child,  
25 I had read during development when it was first used as a

1 single-dose drug, that it was effective maybe in 40 percent of  
2 the cases. It's really neither here nor there I think in terms  
3 of our discussion, although I understand that there are many  
4 people who hold the view that the treatment regime that's  
5 required by the FDA is unduly rigorous and that the combination  
6 of the drugs for a medication-induced abortion is safe and  
7 should be more readily available. But the crime more broadly is  
8 selling a drug that is not approved by the FDA, and that does  
9 entail some risks. One of the risks is that a person like  
10 Mr. -- Schmidt [verbatim] I guess is his name -- would make an  
11 unauthorized use of the drug because the distribution in the  
12 manner that you distributed it is relatively uncontrolled, and  
13 so somebody could do some malfeasance with it.

14 The second concern is that, and you shared this concern  
15 because the testing regime that you had was simply to try out  
16 the drugs on yourself before you sold them, but that that is  
17 certainly not what we would expect as the standard for drugs  
18 that are distributed to the public and that it was an effort on  
19 your part to mitigate the risk that you were distributing drugs  
20 from a source that you didn't know well but that that did impose  
21 some risk on the public because, as you said, you weren't really  
22 prepared or equipped to do the kind of testing that would  
23 normally be done before a drug is sold to the public. So even  
24 apart from the understandable objection to the legal regime, the  
25 fact that you distributed the unregulated and untested

1 medication to the public is of concern.

2 I'll take your response if you have one on that point.

3 THE DEFENDANT: Okay. Yeah, I acknowledge that those  
4 are risks, and I don't think there's ever a point I felt that  
5 they should not be regulated. Like, I think they should. I  
6 think every shipment that comes into the U.S. should have a  
7 random sample tested and, ideally, the test results published  
8 before distribution. I'm not sure if that happens with all  
9 sources approved or unapproved. But, no, I acknowledge that,  
10 and I don't think -- I think it's a burden on women. The  
11 uncertainty of where you're getting it causes an enormous amount  
12 of stress, so I'm in agreement that these things should be  
13 tested and regulated. I think women should have access to  
14 regulated, tested medicine.

15 THE COURT: And let me ask you straight out the  
16 question that I think is posed by the sentencing submissions  
17 that I have here: Are you going to do this again? Are you  
18 sufficiently deterred?

19 THE DEFENDANT: No, I'm not doing it again.

20 THE COURT: I mean, I take it as a serious question  
21 because I believe you're resolute in your view that you provided  
22 a valuable component of health care to women who needed it.

23 THE DEFENDANT: Well, you know, there are certain  
24 political views that I hold. I think there's a big difference  
25 between disagreeing with a policy or feeling that maybe our



1 system does not adequately serve certain constituents,  
2 especially the poor, and acting on those things. You know,  
3 ultimately this hasn't been worth it. This has been really  
4 stressful. That's all.

5 THE COURT: All right. All right. Here's what I'm  
6 going to do with the sentence: Neither side has asked for a  
7 term of incarceration, and I don't think that would be necessary  
8 here. The factors that I have to consider in setting a sentence  
9 include punishment, and there are times when incarceration is  
10 warranted. Even though there are many collateral consequences  
11 to a felony conviction, sometimes that's just not enough  
12 punishment. But here I think that there's really no factor that  
13 compels me to impose a term of incarceration on Ms. Wing. The  
14 only one I think that could arguably -- I guess there's two:  
15 One, there's not enough punishment involved if I don't send her  
16 to prison or, two, that she's not sufficiently deterred.

17 I'm persuaded that she's deterred from future conduct.  
18 When I look at what has happened to her, there's a financial  
19 component to the sentence that I impose; there's the collateral  
20 consequence of a felony conviction, which is punitive; and  
21 there's the stress of the prosecution. And I acknowledge that  
22 in many cases, I mean, that's sort of a baseline of what happens  
23 when there's a felony prosecution, and in some cases even that  
24 isn't enough in terms of punishment or really deterrence. But  
25 I'm persuaded that the prosecution itself with its corollary

1 effects is sufficiently punitive, and I'm persuaded that it's  
2 very unlikely that Ms. Wing is going to reoffend. I'll note too  
3 that she has no other criminal history. So in terms of that  
4 component of the sentence, I don't think there's any need to  
5 impose any term of incarceration.

6 Mr. Graber raised the issue of what effect I should give to  
7 the fact that Ms. Wing is a single mom. That too wouldn't  
8 immunize her from a term of incarceration or from any other  
9 punishment, but it is a factor, I think, probably in every  
10 sentence. I have many people who go to prison despite the  
11 impact that it will have on their children, so it's not an  
12 inconsiderable issue as far as I'm concerned, but it's not the  
13 reason that I'm not sending Ms. Wing to prison.

14 And so I will impose a term of probation of two years, and  
15 that will be subject to the conditions -- most of the conditions  
16 that are proposed and justified in the presentence report. I am  
17 not inclined to impose the drug testing provision. That's  
18 normally a term of probation, but I see no meaningful substance  
19 abuse history with Ms. Wing, and so particularly under the  
20 current circumstances with the coronavirus, it just seems to me  
21 to be really unnecessary kind of in the first place to impose a  
22 drug testing requirement, but given the complexities of  
23 administering a drug testing regime under coronavirus  
24 conditions, it seems to be a real unnecessary waste of  
25 resources.

1           So other than Condition No. 15, which is the drug testing  
2           requirement, Mr. Van Wagner, do you have any objections in the  
3           conditions that are proposed?

4           MR. VAN WAGNER: (Inaudible).

5           THE COURT: I'm reading your lips and guessing that  
6           you're saying no, but let's confirm that.

7           MR. VAN WAGNER: Thank you. No, we have no objections.  
8           I reviewed them with my client, and we have nothing to add to  
9           that.

10          THE COURT: All right. And do you want me to read them  
11          or do you need any further justification?

12          MR. VAN WAGNER: We don't need further justification.  
13          We do not require the Court to read them aloud. We've had the  
14          opportunity to review them in two versions of the presentence  
15          report. Ursula knows what they are, and she can affirm that  
16          with a nod of the head if she likes.

17          THE COURT: Okay. All right. So I won't read the  
18          conditions. It's tedious. It's more effective, I think, to go  
19          over them in writing anyway. So the only thing I'll say is they  
20          can be adjusted during the term of your probation if for some  
21          reason they need to be adjusted to your circumstances. You can  
22          make a motion to the Court to revise the conditions. You could  
23          also -- the government or the probation office can do the same  
24          thing. So those conditions can be changed, but those conditions  
25          1 through 14 will govern your conduct in addition to the

1 mandatory conditions, which are that you shouldn't commit any  
2 more crimes, don't use controlled substances, provide a DNA  
3 sample. So those are the conditions.

4 I have already signed the order of forfeiture on the  
5 property that was forfeited, and then I don't know if the order  
6 that I signed included the \$61,753 forfeiture, which was the  
7 proceeds of the sale of the unlicensed medication. And I want  
8 to make an observation about it, and I think strictly speaking  
9 it's not really punitive in the nature of being strictly a fine,  
10 but I do recognize it has a punitive aspect to it here because  
11 it's the forfeiture not just of the proceeds of the sale but  
12 also the money that you spent to get the proceeds, and it's not  
13 in the nature of restitution in a tax case where you're just  
14 paying the amount that you owed anyway. So I do think that the  
15 \$61,000 forfeiture actually has a punitive aspect to it, and so  
16 as I calculate what additional fine should be appropriate,  
17 that's a factor that I'm considering as well.

18 I think that in light of your circumstances, I can't find  
19 that you're indigent and incapable of paying a fine, and so I'm  
20 obligated to, under those circumstances, impose a just fine. I  
21 don't think that a fine at the top end of the guideline range is  
22 really necessary for punishment, so the fine that I will impose  
23 will be \$10,000, near the low end of the guideline range. And I  
24 recognize that under your circumstances, I think if we thought  
25 about a global scale, you're a wealthy person, but I don't think

1       that you're really what I would think of as a wealthy person as  
2       I consider the fine to impose on you. I think that you're  
3       capable of living what many Americans would consider to be a  
4       comfortable lifestyle, but I don't think that you have a large  
5       amount of excess cash given the living expenses that you have  
6       and the expenses of taking care of your daughter. So I don't  
7       really think of you as a wealthy person, but I do think that you  
8       can afford a \$10,000 fine, and I think that in conjunction with  
9       the punitive dimension of the financial forfeiture that you're  
10      making, that provides sufficient punishment, and so that's the  
11      fine that I will order.

12           I also have to impose the \$100 special assessment, which is  
13      a requirement of any felony conviction, so I impose the \$100  
14      special assessment.

15           Let's see if there's anything else that I have to recognize  
16      here in the sentencing. I covered the forfeiture amount.

17           And I believe that, based on the correspondence that I have  
18      from Mr. Van Wagner yesterday, I think the wire transfer has  
19      been initiated. I don't know -- I haven't gotten anything from  
20      the clerk's office saying that they've received the \$61,000 yet,  
21      but I did see that the wire transfer was initiated, so I gather  
22      that is in process.

23           The fine is due and payable immediately, and I will waive  
24      interest as long as the fine is paid within 30 days of today's  
25      sentencing.

1           There is no term of incarceration, so I don't know if the  
2           probation office has to notify any law enforcement agencies and  
3           the state attorney general of defendant's release to the  
4           community. She's not been incarcerated.

5           There was an appeal waiver on the -- on the -- in the plea  
6           agreement, and so, Ms. Wing, you've waived your right to appeal.  
7           If you believe that there's some residual right to appeal  
8           because you think your plea somehow was unlawful or involuntary,  
9           you have to file a notice of appeal within the deadlines, and  
10          that means within 14 days of entry of judgment in this case or  
11          within 14 days of any notice of appeal that would be filed by  
12          the government if the government were to appeal. If you can't  
13          afford the filing fee for the appeal, you can apply for leave to  
14          appeal *in forma pauperis*, which means without paying the filing  
15          fee, and if you can't afford an attorney to represent you in the  
16          appeal, you could apply for court-appointed counsel to represent  
17          you at government expense.

18          I believe that we've got Count 2 to be dismissed; is that  
19          right, Mr. Graber?

20                 MR. GRABER: Yes. That's correct.

21                 THE COURT: Okay. Count 2 is dismissed then.

22          I think I have covered everything that I need to address in  
23          the sentence, but let's just make sure.

24          Mr. Graber, is there anything else I need to address?

25                 MR. GRABER: No, Your Honor. I just want to make sure

1       you've announced the forfeiture of the money judgment in the  
2       amount of \$61,753, which I agree the wire has been made. It  
3       should be hitting shortly. And you also signed the order this  
4       morning with regards to the forfeiture of the Apple iPhone and  
5       the Apple MacBook Pro, and so those would be forfeited as well.

6               THE COURT: That's right. And I did sign the order on  
7       the MacBook and the iPhone.

8               MR. GRABER: That's all I have, Your Honor.

9               THE COURT: Mr. Van Wagner, anything else?

10              MR. VAN WAGNER: No, Your Honor, other than  
11       appreciative of the fact that we could do this using the Zoom  
12       platform.

13              THE COURT: Well, it's very efficient. I kind of  
14       prefer doing them in person. It seems appropriate given the  
15       dignity of the event to have everyone convene in the courtroom,  
16       but under the circumstances it's safer to do it this way, and  
17       it's quite efficient, so I'm happy to do it that way.

18              Ms. Sheets, is there anything that I overlooked?

19              OFFICER SHEETS: Your Honor, I was -- just for  
20       clarity's sake, are you waiving mandatory drug testing as well?

21              THE COURT: Yes. I am waiving mandatory drug testing.

22              OFFICER SHEETS: Okay. Thank you.

23              THE COURT: All right. Thank you, all.

24              MR. VAN WAGNER: Thank you. Have a good weekend.

25              THE CLERK: This Honorable Court is adjourned.

1 (Proceedings concluded at 2:06 p.m.)

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3 I, JENNIFER L. DOBBRATZ, Certified Realtime and Merit  
4 Reporter in and for the State of Wisconsin, certify that the  
5 foregoing is a true and accurate record of the proceedings held  
6 on the 10th day of July, 2020, before the Honorable  
7 James D. Peterson, Chief U.S. District Judge for the Western  
8 District of Wisconsin, in my presence and reduced to writing in  
9 accordance with my stenographic notes made at said time and  
10 place.

11 Dated this 18th day of August, 2020.

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17 \_\_\_\_\_/s/ Jennifer L. Dobbratz\_\_\_\_\_

18 Jennifer L. Dobbratz, RMR, CRR, CRC  
19 Federal Court Reporter  
20  
21  
22  
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